

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals, District of Columbia

OCTOBER TERM, 1900.

No. 1028.

45

No. 9, SPECIAL CALENDAR.

THE CAPITAL TRACTION COMPANY, APPELLANT,

v's.

IDA I. ROCKWELL.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED NOVEMBER 2, 1900.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

THE CAPITAL TRACTION COMPANY, Appellant,
vs.
IDA I. ROCKWELL. } No. 1028.

a Supreme Court of the District of Columbia.

IDA I. ROCKWELL
vs.
THE CAPITAL TRACTION COMPANY. } No. 43951. At Law.

UNITED STATES OF AMERICA, }
District of Columbia, } ss :

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit :

1 Declaration.

Filed May 23, 1900.

In the Supreme Court of the District of Columbia.

IDA I. ROCKWELL, Plaintiff,
vs.
THE CAPITAL TRACTION COMPANY, Defendant. } At Law. No. 43951.

The plaintiff sues the defendant, a body corporate duly incorporated under an act of Congress of the United States and having its habitat and doing its business in the District of Columbia, for that the defendant heretofore, to wit, on the 15th day of November, A. D. 1898, and for a long time prior thereto, was a common carrier of passengers for hire in cars drawn by cable on railways over and along Pennsylvania avenue, in the city of Washington, in said District, owned, managed, and operated by the said defendant; and the plaintiff says that on the day and year aforesaid, at the intersection of 10th street west and said Pennsylvania avenue, she hailed and stopped a car of the defendant, to wit, car No. 217, going east along said Pennsylvania avenue, under the care, management, and direction of a certain servant of the said defendant, for the purpose of taking passage thereon to her destination; and plaintiff says that it was the duty of said servant of said defendant to keep said car at a standstill until such reasonable time as would enable said plaintiff

to enter the same, but the said defendant's servant, not regarding his duty in the premises, suddenly and without notice to the plaintiff, while she had hold of the railing of said car and had one foot on the running board of said car and the other foot on the ground, and was with due care entering said car, carelessly, negligently, and improperly, and without due notice to the said plaintiff, and while she was in the act of entering said car, caused said car to start suddenly forward, and the said plaintiff, to save herself from being dashed violently to the ground, retained her hold on said railing of said car, and was then and there dragged along the ground by said car for a great distance, to wit, for the space of fifty (50) feet, by means whereof and by and through the carelessness and improper conduct of defendant, by its said servant in that behalf, the ligaments of the plaintiff's wrists were torn asunder and she was otherwise greatly bruised, hurt, and wounded, and became and was sick, sore, and disordered, and so remained and continued for a long space of time, to wit, hitherto; during all which time the said plaintiff suffered great pain of body and mind and was hindered and prevented from performing and transacting her lawful affairs and business by her during that time to be done and transacted, and also by means of the premises was forced and obliged to pay, lay out, and expend divers sums of money, in the whole amounting to a large sum, to wit, the sum of two hundred and fifty (\$250) dollars, in and about endeavoring to be healed and cured of her said wounds, hurts, and bruises, occasioned as aforesaid. Wherefore the plaintiff brings suit and claims three thousand (\$3,000) dollars damages, besides costs.

EUGENE CARUSI & SONS,
Att'ys for Plaintiff.

3 The defendant is to plead hereto on or before the twentieth day, exclusive of Sundays and legal holidays, occurring after the day of service hereof; otherwise judgment.

EUGENE CARUSI & SONS,
Att'ys for Plaintiff.

Plea.

Filed June 18, 1900.

In the Supreme Court of the District of Columbia.

IDA I. ROCKWELL, Plaintiff,

vs.

THE CAPITAL TRACTION COMPANY, Defendant.

} At Law. No. 43951.

Plea of the defendant, The Capital Traction Co.

The Capital Traction Company, the defendant to the declaration filed in the above-entitled cause, comes by R. Ross Perry and G. Thomas Dunlop, its attorneys, and defends the wrongs and injuries complained of in the said declaration and prays judgment of the

said declaration of the said plaintiff, because it says that the said plaintiff, before and at the commencement of this suit and at the time of the aforementioned wrongs and injuries complained of in the said declaration, was and still is married to one Willis G. Rockwell, then and yet her husband, who is still living, to wit, in the city of Washington, District of Columbia; and this it, the said Capital

4 Traction Company, is ready to verify; wherefore, because the said Willis G. Rockwell is not named in the said declaration of the said plaintiff, the said Capital Traction Company prays judgment of the declaration aforesaid, and that the same may be quashed and for naught held.

R. ROSS PERRY,
G. THOMAS DUNLOP,
Attorneys for Defendant.

CITY OF WASHINGTON, }
District of Columbia, } ss:

G. Thomas Dunlop, of the city of Washington, District of Columbia, maketh oath that he is one of the attorneys in the above-entitled cause of the defendant therein, The Capital Traction Company, and saith that the plea hereto annexed is true in substance and fact.

G. THOMAS DUNLOP.

Subscribed and sworn to before me this 18th day of June, A. D. 1900.

J. R. YOUNG, *Clerk*,
By W. E. WILLIAMS, *Ass't Cl'k.*

5 *Demurrer to Defendant's Plea in Abatement.*

Filed Jun- 21, 1900.

In the Supreme Court of the District of Columbia.

IDA I. ROCKWELL, Plaintiff,	}	At Law. No. 43951.
vs.		
THE CAPITAL TRACTION COMPANY, Defendant.		

The plaintiff says that the defendant's plea in abatement is bad in substance.

EUGENE CARUSI & SONS,
Attorneys for Plaintiff.

NOTE.—That the matter of law intended to be argued is that the joinder of plaintiff's husband is not necessary in an action by the wife for damages for personal injuries to her.

Supreme Court of the District of Columbia.

FRIDAY, *October 19, 1900.*

Session resumed pursuant to adjournment, Chief Justice Bingham presiding.

IDA I. ROCKWELL, Pl'ff,	} At Law. No. 43951.
v.	
THE CAPITAL TRACTION Co., Def't.	

Upon hearing the demurrer of the plaintiff to the defendant's plea in abatement, it is considered that said demurrer be, and the same is hereby, sustained.

Supreme Court of the District of Columbia.

TUESDAY, *October 23, 1900.*

Session resumed pursuant to adjournment, Chief Justice Bingham presiding.

IDA I. ROCKWELL, Pl'ff,	} At Law. No. 43951.
v.	
THE CAPITAL TRACTION Co., Def't.	

The demurrer to the defendant's plea having been heretofore sustained, leave is hereby granted the defendant to plead over within twenty days, unless a special appeal be allowed by the Court of Appeals; in which case, if the decision of this court shall be sustained, then the defendant shall plead over within five days after
7 such decision by the Court of Appeals.

Order Allowing Special Appeal to Court of Appeals.

Filed Oct. 24, 1900.

In the Court of Appeals of the District of Columbia, October Term, 1900. No. 80, Original Docket.

THE CAPITAL TRACTION COMPANY, Petitioner,	} Law. No. 43951.
v.	
IDA I. ROCKWELL.	

On consideration of the petition of the Capital Traction Company for the allowance of a special appeal from a judgment of the supreme court of the District of Columbia entered herein on the 19th day of October, 1900, it is now here ordered by the court that said appeal be, and the same is hereby, allowed.

M. F. MORRIS,
SETH SHEPARD,
Associate Justices.

October 23, 1900.

A true copy.

Test: ROBERT WILLETT, *Clerk.* [SEAL.]

8 In the Supreme Court of the District of Columbia.

IDA I. ROCKWELL	}	At Law. No. 43951.
<i>vs.</i>		
THE CAPITAL TRACTION COMPANY.		

The President of the United States to Ida I. Rockwell; Greeting:

You are hereby cited and admonished to be and appear at a Court of Appeals of the District of Columbia; upon the docketing the cause therein under and as directed by the rules of said court, pursuant to an appeal allowed in the Court of Appeals of the District of Columbia on the 23d day of October, 1900, wherein The Capital Traction Company — appellant and you are appellee, to show cause, if any there be, why the judgment rendered against the said appellant should not be corrected and why speedy justice should not be done to the parties in that behalf.

Seal Supreme Court of the District of Columbia.	Witness the Honorable Edward F. Bingham, Chief Justice of the supreme court of the District of Columbia, this 24th day of October, in the year of our Lord one thousand nine hundred (1900).
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JOHN R. YOUNG, *Clerk.*

Service of the above citation accepted this 24 day of October, 1900.

EUGENE CARUSI & SONS,
Attorney-for Appellee.

9 Supreme Court of the District of Columbia.

WEDNESDAY, *October 24, 1900.*

Session resumed pursuant to adjournment, Chief Justice Bingham presiding.

* * * * * *

IDA I. ROCKWELL, Pl'ff,	}	At Law. No. 43951.
<i>v.</i>		
THE CAPITAL TRACTION Co., Def't.		

Upon motion of Mr. Perry, leave is hereby granted the defendant to deposit the sum of one hundred dollars in lieu of a bond on appeal.

Memorandum.

October 24, 1900.—\$100 deposited by defendant in lieu of appeal bond.

10 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss :
District of Columbia,

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 9, inclusive, to be a true and correct transcript of the record, as prescribed by rule 5 of the Court of Appeals of the District of Columbia, in cause No. 43951, at law, wherein Ida I. Rockwell is plaintiff and The Capital Traction Company is defendant, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe
Seal Supreme Court my name and affix the seal of said court, at
of the District of the city of Washington, in said District, this
Columbia. 30th day of October, A. D. 1900.

JOHN R. YOUNG, *Clerk*.

Endorsed on cover: District of Columbia supreme court. No. 1028. The Capital Traction Company, appellant, vs. Ida I. Rockwell. Court of Appeals, District of Columbia. Filed Nov. 2, 1900. Robert Willett *clerk*.

